



PUBLIC NOTICE

Federal Communications Commission
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DA 00-750

April 6, 2000

**COMMENTS REQUESTED ON THE APPLICATION
BY SBC COMMUNICATIONS INC.
FOR AUTHORIZATION UNDER SECTION 271 OF THE COMMUNICATIONS ACT
TO PROVIDE IN-REGION, INTERLATA SERVICE IN THE STATE OF TEXAS
(CC DOCKET NO. 00-65)**

On April 5, 2000, SBC Communications Inc. and its subsidiaries, Southwestern Bell Telephone Company and Southwestern Bell Communications Services, Inc., d/b/a Southwestern Bell Long Distance (collectively, SBC) filed an application for authorization to provide in-region, interLATA service in the State of Texas, pursuant to section 271 of the Communications Act of 1934, as amended (the Act), 47 U.S.C. § 271. This Public Notice establishes certain procedural requirements relating to consideration of SBC's application. The Commission in a prior Public Notice adopted general procedural requirements that apply to the processing of this and all other applications for authorization under section 271 of the Act.¹ A copy of this earlier Public Notice is attached hereto. Also attached is a protective order adopted today, *Application of SBC Communications Inc. Pursuant to Section 271 of the Telecommunications Act of 1996 to Provide In-Region, InterLATA Services in Texas*, Protective Order, DA 00-784 (CCB rel. Apr. 6, 2000), that establishes the conditions under which access will be made available to confidential documents submitted in this proceeding by SBC or any other party.

Comments By Interested Third Parties. Comments by interested third parties in support of or in opposition to SBC's application must be filed on or before **April 26, 2000**. Because we are incorporating the existing record in CC Docket No. 00-4, the parties are advised not to reiterate comments previously filed because they will be duly considered. Parties are free, however, to provide additional evidence, as well as comments on any information contained in the combined record.

State Commission and Department of Justice Written Consultations. The Public Utility Commission of Texas (Texas Commission) must file any written consultation on or before **April 26, 2000**. Any written consultation by the U.S. Department of Justice, which by the Act's express terms must become part of the Commission's record, must be filed on or before

¹ See Updated Filing Requirements for Bell Operating Company Applications Under Section 271 of the Communications Act, Public Notice, DA 99-1994, 1999 WL 766282 (CCB rel. Sept. 28, 1999) (*September 28, 1999 Public Notice*).

May 12, 2000. Because the Texas Commission and the Department of Justice are given roles by statute in a section 271 proceeding, copies of all pleadings, including comments, should be filed on those parties.²

Replies. All participants in the proceeding -- the applicant, interested third parties, the Texas Commission, and the Department of Justice -- may file a reply to any comments filed by any other participant on or before **May 19, 2000.**

Treatment of Confidential Information. As set forth in the *September 28, 1999 Public Notice*, submissions by parties (including the applicant, the Department of Justice, and the relevant state commission) that contain no confidential information or that do not comment on any confidential information submitted by other participants in the proceeding shall be filed in conformance with the procedures set forth in the *September 28, 1999 Public Notice*. However, to the extent a submission includes confidential information or comments on confidential information that another participant has submitted, the party must file with the Office of the Secretary: (a) one copy of only the portion(s) of the submission that contain confidential information or comment on confidential information that another participant has submitted, exclusive of the remainder of the submission; and (b) one original and two copies of the entire confidential submission in redacted form. Each of the submissions described in items (a) and (b) must be accompanied by a cover letter. The submission described in item (a) and accompanying cover letter should be stamped "Confidential—Not for Public Inspection." The original and two copies of the redacted submission described in item (b) and their accompanying cover letters should be stamped "Redacted—For Public Inspection." The cover letters accompanying both sets of submissions set forth in items (a) and (b) above should state that the party is filing a confidential portion of the submission and a redacted version of the entire submission. Other than bearing different stamps (i.e., "Confidential—Not for Public Inspection" or "Redacted—For Public Inspection"), the (a) and (b) cover letters should be identical. The submissions should be delivered in person to Magalie Roman Salas, Secretary, 445 12th Street, S.W., Room TW-B-204; or, in her absence, to William F. Caton, Deputy Secretary, at the same address. A set of each of the submissions should also be delivered to Cecilia Stephens, Policy and Program Planning Division, Common Carrier Bureau, 445 12th Street, S.W., Room 5-C230. Each redacted filing must also be submitted on a read-only CD-ROM³ formatted in Word 97 or Excel 97 format, as applicable.

All questions relating to access to confidential information submitted by SBC should be directed to Jonathan Rabkin at Kellogg, Huber, Hansen, Todd & Evans, 1301 K Street, N.W., Suite 1000 West, Washington, DC 20005. He can be reached by phone at 202-326-7963.

Availability of Information. A wide range of information relating to SBC's section 271 application for Texas may be retrieved from the Commission's World Wide Web site at

² Please forward copies to the attention of: (1) Public Utility Commission of Texas, 1701 N. Congress Ave., PO Box 13326, Austin, TX 78711-3326; and (2) Jamie Heisler, U.S. Department of Justice, Antitrust Division, Telecommunications Task Force, 1401 H St., NW, Suite 8000, Washington, DC 20005.

³ If filing on CD-ROM is not possible, applicants may file on a 3.5 inch computer diskette.

<http://www.fcc.gov>.⁴ Specific information, such as comments and *ex parte* submissions, may be obtained from the Electronic Comment Filing System (ECFS), which is accessible through the Commission's website. Moreover, SBC has voluntarily agreed to post several documents, including its application and supporting affidavits and substantive *ex parte* submissions, on the World Wide Web at www.sbc.com/Long_Distance/Home.html.

The application will be available for public inspection during regular business hours in the Reference Information Center of the Federal Communications Commission, Room CY-A-257, 445 12th Street, S.W., Washington, DC 20554. Paper copies of the application, and the record generated in response thereto, may be obtained from the Commission's copy contractor, ITS, Inc., 1231 20th Street, N.W., Washington, DC 20036, tel. 202/857-3800.

Ex Parte Rules - Permit-but-Disclose Proceeding. Because of the broad policy issues involved, section 271 application proceedings initially are classified as permit-but-disclose proceedings.⁵ Accordingly, *ex parte* presentations will be permitted, provided they are disclosed in conformance with the Commission's *ex parte* rules.⁶ Because of the 90-day statutory timeframe for decision, the Commission strongly encourages parties to set forth their views comprehensively in the formal filings specified above (e.g., written consultations, oppositions, supporting comments, etc.) and not to rely on subsequent *ex parte* presentations. In any event, parties may file no more than a total of 20 pages of written *ex parte* submissions. This 20-page limit does not include: (1) written *ex parte* submissions made solely to disclose an oral *ex parte* contact; (2) written material submitted at the time of an oral presentation to Commission staff that provides a brief outline of the presentation; (3) written material filed in response to direct requests from Commission staff; or (4) written factual exhibits. *Ex parte* submissions in excess of the 20-page limit will not be considered part of the record of this proceeding. In light of the statutory deadline for decision, parties are hereby requested to provide Bureau staff with courtesy copies of any *ex parte* presentations made to any member of the Commission.

For purposes of this proceeding, any oral *ex parte* presentations from the Department of Justice and the Texas Commission are deemed to be exempt *ex parte* presentations.⁷ To the extent that the Commission obtains through such oral *ex parte* presentations new factual information on which the Commission may rely in its decision-making process, the party submitting the

⁴ The rules relating to public information and the inspection of records are set forth at sections 0.441 through 0.470 of the Commission's Rules. 47 C.F.R. §§ 0.441-0.470.

⁵ See 47 C.F.R. § 1.1206(a)(13) (added by 64 FR 68946, 68946 (1999) (effective Jan. 10, 2000)); e.g., Comments Requested on Application by Bell Atlantic for Authorization under Section 271 of the Communications Act to Provide In-region, InterLATA Service in the State of New York (CC Docket No. 99-295), Public Notice, DA 99-2014, 1999 WL 770903 (CCB rel. Sept. 29, 1999).

⁶ See 47 C.F.R. §§ 1.1202, 1.1206(b). Interested parties are to file with the Secretary of the Commission and serve Cecilia Stephens, Policy and Programming Planning Division, Common Carrier Bureau, Federal Communications Commission, Rm. 5-C230, 445 Twelfth St., S.W., Washington, DC 20554, and ITS, Inc., 2131 20th St., N.W., Washington, DC 20036, with copies of written *ex parte* presentations in these proceedings in accordance with the Commission's *ex parte* rules.

⁷ See *id.* § 1.1200(a) ("Where the public interest so requires in a particular proceeding, the Commission and its staff retain the discretion to modify the applicable *ex parte* rules by order, letter, or public notice."); *id.* § 1204(a)(6), as amended by 64 FR 68946, 68946 (1999) (effective Jan. 10, 2000).

information – either the Department of Justice or the Texas Commission -- shall prepare a summary for inclusion in the record in accordance with Commission rules, unless such a summary is being prepared by Commission staff.⁸ We also waive any page limits for written *ex parte* submissions by the Department of Justice or the Texas Commission.⁹

Notwithstanding the above, the Commission may, by subsequent public notice, prohibit all presentations to its decision-making personnel regarding the application during a seven-day period preceding the anticipated release date of the Commission's order regarding the application.¹⁰

Ex Parte Meeting Schedule. The Common Carrier Bureau will be available for meetings on **April 19-20, 2000** and **May 15-16, 2000**, in case interested parties wish to discuss any issues that they intend to raise in comments or reply comments, as applicable, in support of or in opposition to SBC's application. The purpose of these meetings is to give interested parties an opportunity to inform Bureau staff of such issues prior to filing their written comments or reply comments.

The Bureau also intends to hold several joint *ex parte* meetings with both commenters and SBC in late May, on discrete issues raised in the record. The purpose of these meetings will be to give participants in this proceeding an opportunity to narrow and resolve any outstanding issues related to arguments that parties presented in their previous written filings. To resolve any disputed issues in a timely manner, the Bureau encourages interested parties to make joint presentations of common concerns to the extent feasible. Parties who wish to schedule meetings with the Bureau should call **Gary Remondino, Policy and Program Planning Division, at (202) 418-2298**.

Aside from the meetings listed above, *ex parte* meetings related to this proceeding will occur only at the request of Bureau staff.

Calendar

Ex Parte Meetings related to Comments: April 19-20, 2000

Comments Due (includes Texas Commission): April 26, 2000

U.S. Department of Justice Evaluation: May 12, 2000

Ex Parte Meetings related to Reply Comments: May 15-16, 2000

Reply Comments Due: May 19, 2000

⁸ See *id.* § 1.1206(a).

⁹ See *id.* § 1.1200(a).

¹⁰ See *id.* §§ 1.1200; 1.1203.

By the Common Carrier Bureau.

News Media contact: Michael Balmoris -- (202) 418-1500.

Common Carrier Bureau contact: Cecilia Stephens -- (202) 418-1558